

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

NATIONAL INDOOR FOOTBALL
LEAGUE, L.L.C.,

Plaintiff,

vs.

R.P.C. EMPLOYER SERVICES,
INC., and DANIEL D'ALIO,

Defendants.

CIVIL ACTION NO.: 02-0548

ELECTRONICALLY FILED

MOTION TO STRIKE WITNESSES AND MEDICAL DOCUMENTS

AND NOW, come the Defendants RPC Employer Services, Inc. and Daniel J. D'Alto, by and through their Attorneys and request this Honorable Court grant relief as follows:

1. Defendants request this Honorable Court strike the witnesses and medical exhibits of Plaintiff for failure to comply with the Court's Pretrial Order or, in the alternative, strike witnesses listed but not on Plaintiff's Pretrial Statement and the medical exhibits that were turned over to Attorney Seymour only as recently as March 13, 2006.

2. On July 15, 2005, the parties attended a Settlement Conference with Judge Ambrose.

3. At such time, Defendants made a request that Plaintiff turn over the following:

- a. All information for each claim by an NIFL player that is required on Ohio Workers' Compensation form;

- b. Verification of medical treatment for each claim;
- c. Percentage of claim paid by Ohio Workers Compensation. (See attached Exhibit "A").

4. The Court gave Plaintiff sixty (60) days to respond by its Order of Court dated July 18, 2005 and therefore said documentation was due on or before September 16, 2005.

5. Plaintiff failed to respond in that time period.

6. On September 20, 2005, Attorney Seymour wrote a letter to Attorney Leventry requesting the information. (See attached Exhibit "B").

7. On September 27, 2005, Attorney Leventry responded that NIFL finished the document requests and the same would be forwarded. (See attached Exhibit "C").

8. In November 2005, the parties had a telephone conference with Judge Ambrose regarding Plaintiff's failure to remit the documentation.

9. Plaintiff provided two boxes of documentation on November 18, 2005.

10. On December 20, 2005, another settlement conference was held with Judge Ambrose. Plaintiff did not produce or indicate it would produce any further documentation on medical evidence.

11. This Court's Pretrial Order of January 6, 2006 stated that Plaintiff's witness list and exhibits were to be filed by March 6, 2006.

12. Plaintiff filed said lists on March 14, 2006.

13. Plaintiff delivered to Defendant's counsel's office another box of medical documents on March 13, 2006.

14. Plaintiff is in violation of two Court Orders regarding the production of medical evidence and said evidence should be stricken.

15. The information was not provided in a timely manner to allow Defendants to prepare an adequate rebuttal. Plaintiff had more than six months to prepare the documents and stated in September that all documents were gathered. Yet on March 13, 2006, two weeks prior to trial, Defendants are still receiving medical documents to be admitted at trial.

16. On December 13, 2002, Defendant requested the medical information from Plaintiff. (See attached Exhibit "D").

WHEREFORE, Defendants request an Order striking all witnesses and all medical documentation exhibits.

s/ Bernard C. Caputo

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CERTIFICATE OF SERVICE

We, the undersigned, do hereby certify that true and correct copies of the foregoing MOTION TO STRIKE WITNESSES AND MEDICAL DOCUMENTS has been electronically served through the CM/ECF electronic filing system this 17th day of March, 2006.

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